

## CIVIL COVER SHEET

## APPENDIX H

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

MARK RUSSO

## DEFENDANTS

NATIONAL ASSOCIATION OF  
SECURITIES DEALERS

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

(b) County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Davis, Bucco & Ardizzi  
10 E. 6th Ave., Conshohocken, PA 19428

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

PTF	DEF	PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input checked="" type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN

(Place an "X" in One Box Only)

1 Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 31391  
Brief description of cause: Negligence

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

DEMAND \$ 75,000+

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

5-25-06

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

APPENDIX N

SUMMONS IN A CIVIL ACTION

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARK RUSSO

v.

NATIONAL ASSOCIATION OF SECURITIES  
DEALERS

CIVIL ACTION NO.

TO: (NAME AND ADDRESS OF  
DEFENDANT)

National Association of Securities  
Dealers  
1735 K. Street, NW  
Washington, DC 20006

YOU ARE HEREBY SUMMONED and required to serve upon

Plaintiff's Attorney (Name and Address)

John G. Richards, II  
Davis, Bucco & Ardizzi  
10 E. Sixth Avenue, Ste. 100  
Conshohocken, PA 19428

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Michael E. Kunz, Clerk of Court

Date:

(By) Deputy Clerk

## UNITED STATES DISTRICT COURT

## APPENDIX F

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1200 Karen Lane, West Chester, PA 19380

Address of Defendant: 1735 K Street, NW, Washington, DC 20006

Place of Accident, Incident or Transaction: Sylvan Learning Center, Philadelphia, PA

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes  No

Does this case involve multidistrict litigation possibilities?

Yes  No

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes  No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes  No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes  No

CIVIL: (Place  in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1.  Indemnity Contract, Marine Contract, and All Other Contracts
2.  FELA
3.  Jones Act-Personal Injury
4.  Antitrust
5.  Patent
6.  Labor-Management Relations
7.  Civil Rights
8.  Habeas Corpus
9.  Securities Act(s) Cases
10.  Social Security Review Cases
11.  All other Federal Question Cases  
(Please specify)

B. *Diversity Jurisdiction Cases:*

1.  Insurance Contract and Other Contracts
2.  Airplane Personal Injury
3.  Assault, Defamation
4.  Marine Personal Injury
5.  Motor Vehicle Personal Injury
6.  Other Personal Injury (Please specify)
7.  Products Liability
8.  Products Liability — Asbestos
9.  All other Diversity Cases - *Negligence*  
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

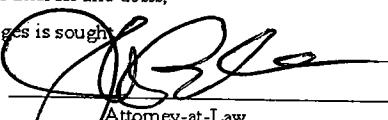
I, John G. Richards, II

, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: 5/25/2006

  
John G. Richards, II  
Attorney-at-Law

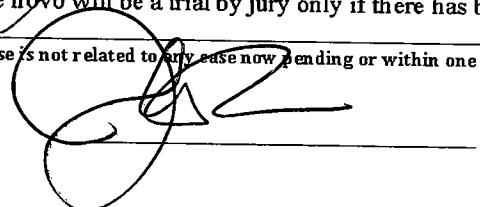
79128

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 5/25/2006



APPENDIX G

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

MARK RUSSO

V.

Civil Action

No: \_\_\_\_\_

NATIONAL ASSOCIATION OF  
SECURITIES DEALERS

DISCLOSURE STATEMENT FORM

Please check one box:

The nongovernmental corporate party, Mark Russo, in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.

The nongovernmental corporate party, \_\_\_\_\_, in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock:

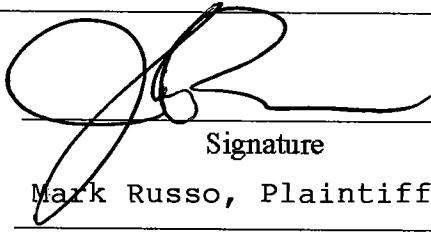
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7/25/2006

Date



Signature

Counsel for:

Mark Russo, Plaintiff

**Federal Rule of Civil Procedure 7.1 Disclosure Statement**

(a) WHO MUST FILE: NONGOVERNMENTAL CORPORATE PARTY. A nongovernmental corporate party to an action or proceeding in a district court must file two copies of a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation.

(b) TIME FOR FILING; SUPPLEMENTAL FILING. A party must:

- (1) file the Rule 7.1(a) statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court, and
- (2) promptly file a supplemental statement upon any change in the information that the statement requires.

## APPENDIX I

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORM

MARK RUSSO

: CIVIL ACTION

v.

:

NATIONAL ASSOCIATION OF  
SECURITIES DEALERS

:

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

## SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )

(f) Standard Management – Cases that do not fall into any one of the other tracks. (✓)

5-25-06	John G. Richards, II	Plaintiff
Date	Attorney-at-law	Attorney for
610-238-0880	610-238-0244	john.richards@davisbucco.com
Telephone	FAX Number	E-Mail Address

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARK RUSSO	:	
1200 Karen Lane	:	
West Chester, PA 19380	:	CIVIL ACTION NO.:
Plaintiff	:	
vs.	:	
NATIONAL ASSOCIATION	:	
OF SECURITIES DEALERS	:	
1735 K Street, NW	:	
Washington, DC 20006	:	
Defendant	:	

**COMPLAINT**

Plaintiff, Mark Russo, by its undersigned attorneys, files its complaint against the National Association of Securities Dealers, as follows:

**PARTIES**

1. Plaintiff, Mark Russo (“Russo”), is an adult individual residing at 1200 Karen Lane, West Chester, Pennsylvania, 19380.
2. Defendant, the National Association of Securities Dealers (“NASD”) is, upon information and belief, a foreign corporation with a principal place of business located at 1735 K Street, NW, Washington, DC 20006.

**VENUE AND JURISDICTION**

3. Venue is proper in the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. §1331, as the parties are residents of different states, Plaintiff is a resident of this district and the transaction giving rise to this incident arose in this district.

4. Jurisdiction is proper pursuant to 28 U.S.C. §1332 as the amount in controversy exceeds \$75,000.

### **FACTUAL BACKGROUND**

5. On October 18, 2004, Russo took a position with UBS Financial Services (“UBS”), an international financial services and investment management company.

6. Russo was hired as a sales trainee at an annual salary of \$50,000 per year.

7. At the time that Russo was hired he was not licensed to trade securities.

8. UBS hired Russo with the expectation that he would successfully take the Series 7 Exam (the “Exam”). Successfully passing the examination would designate Russo as a licensed registered representative with the National Association of Securities Dealers and would authorize him to trade securities.

9. Simply stated, passing the Exam would enable Russo to work as a stockbroker.

10. The terms of Russo’s employment with UBS called for him to transition (over the course of two years) from straight salary to pure commission after successfully passing the Exam.

11. There was no limit on the amount of commission income that Russo could have earned with UBS after passing the Exam and becoming able to earn commission income.

12. UBS also made it clear that it would fire Russo if he did not pass the Exam.

13. From October 2004 until January 2005, Russo prepared to take the Exam.

14. In preparation for the Exam, Russo (over a 13-week study period) prepared for the examination as follows:

a. Used study materials issued by UBS as well as other materials which he independently obtained;

- b. completed numerous practice examinations which mimicked the questions for the exam;
- c. completed several of the practice examinations under timed conditions;
- d. participated in group study sessions with fellow sales trainees;
- e. completed trainee/mentor study sessions to obtain additional information about the exam.

15. Russo registered to take the Exam in January 2005.

16. Russo attended the scheduled examination at a Sylvan Learning Center in center-city Philadelphia, Pennsylvania on January 19, 2005.

17. The Exam was given using a computerized system whereby questions were posed to the students at terminals.

18. The students, including Russo, input their answers directly into terminals at the testing facility.

19. Russo appeared at the facility and completed the examination in accordance with all the instructions and directives.

20. The NASD conducted the Exam that Russo took.

21. The NASD arranged the Exam and the examination procedures so that the test-taker received his or her score immediately after completing the Exam

22. After Russo completed the Exam the NASD's testing program issued a notice that he had failed the Exam and printed a confirming notice.

23. Russo informed his supervisor at UBS that he had received a failing score on the following day, January 20, 2005.

24. Despite his requests for another chance to take the examination, UBS fired Russo in accordance with its normal procedures. A copy of the termination notice is attached hereto as Exhibit 1.

25. Russo did not obtain another job as a sales trainee and was unemployed for several months.

26. On January 13, 2006, Russo was contacted by his former supervisor at UBS, Managing Director, Bob Hall ("Hall").

27. To Russo's extreme shock and surprise, Hall informed him that he had in fact passed the Exam when he took it on January 19, 2005.

28. After his discussion with Hall, Russo contacted the NASD.

29. The NASD confirmed that Russo had passed the January 2005 Exam.

30. According to the NASD, Russo had been a victim of a "software error" which existed in the computerized testing program that the NASD had used to conduct the test.

31. At approximately the same time, the NASD issued a press release confirming that almost 2,000 individuals had been affected by the software error. A copy of the NASD's January 6, 2006, press release is attached here to as Exhibit 2.

32. In January 2006, the NASD finally provided Russo with confirmation that he did pass the January 2005 Exam. A copy of the NASD's Test Certification Letter to Russo is attached hereto as Exhibit 3.

**COUNT I – NEGLIGENCE**  
**Russo v. NASD**

33. Plaintiff incorporates all the paragraphs of his Complaint as though fully set forth at length.

34. The NASD had a duty to Russo and all similarly situated test-takers to ensure that the Exam and the examination procedures provided accurate results.

35. In fact, the examination procedures did not produce accurate results as Russo was incorrectly informed that he failed the Exam.

36. The NASD negligently caused the inaccurate testing procedures and reporting by;

- a. Utilizing software that incorrectly reported examination results;
- b. Failing to adequately test the software used to conduct the examination;
- c. Failing to ensure that the software reported accurate results;
- d. Failing to have a system in place to confirm and/or check the accuracy of the test results;

37. The NASD was also negligent in informing individuals who had passed the examination that they had failed.

38. As a result of the NASD's negligence, Russo was fired from his position at UBS.

39. Russo also suffered damages by being forced to inform his friends and family that he failed the Exam and that he had been fired as a result.

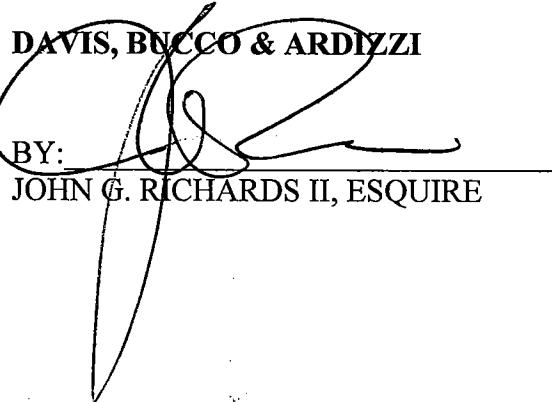
40. Russo continued to suffer embarrassment as a result of the NASD's negligence by being forced to relate the circumstances of his firing to potential employers.

41. Russo has suffered monetary damages as a result of NASD's negligence by reason of his termination from his position with UBS. In addition to the loss of his salary, Russo lost health and retirement benefits, the opportunity to obtain experience in the securities industry and the potential for unlimited commission income.

42. All of Russo's damages were a direct result of the NASD's negligence.

**WHEREFORE**, Plaintiff, Mark Russo, demands judgment in his favor

and against the National Association of Securities Dealers, in an amount in excess of \$75,000, plus interest, costs, and such other relief as the Court deems appropriate.

DAVIS, BUCCO & ARDIZZI  
BY:   
JOHN G. RICHARDS II, ESQUIRE

Date: 9/25/2006

## **EXHIBIT 1**



UBS Financial Services Inc.  
1000 Harbor Boulevard  
Weehawken, NJ 07086

Registration/Compliance Department

Vanessa Silva  
Tel. 201-352-4050  
Fax 201-867-5754  
Vanessa.Silva@ubs.com

[www.ubs.com](http://www.ubs.com)

Mark Russo  
1200 Karen Lane  
West Chester, PA 19380

February 8, 2005

Dear Mark Russo  
In accordance with Article V, Section 3 of the National Association of Securities Dealers (NASD) By-Laws,  
enclosed is an executed uniform termination notice (Form US) as filed with the NASD.  
This is for your records only and does not require any additional action on your part. If you have any questions  
regarding this filing please contact Vanessa Silva at (201) 352-4050.

Sincerely,

A handwritten signature in black ink that reads "Vanessa Silva".  
Vanessa Silva  
Sr. Registration Analyst  
UBS Financial Services Inc.

\*(Uniform Termination Notice)

**FORM U5**  
**UNIFORM TERMINATION NOTICE FOR SECURITIES INDUSTRY**  
**REGISTRATION**

U5 - FULL

02/07/2005

Rev. Form U5 (06/2003)

**NOTICE TO THE INDIVIDUAL WHO IS THE SUBJECT OF THIS FILING**

*Even if you are no longer registered you continue to be subject to the jurisdiction of regulators for at least two years after your registration is terminated and may have to provide information about your activities while associated with this firm. Therefore, you must forward any residential address changes for two years following your termination date or last Form U5 amendment to: CRD Address Changes, P.O. Box 9495, Gaithersburg, MD 20898-9495.*

**1. GENERAL INFORMATION**

<b>First Name:</b> MARK	<b>Middle Name:</b> JAMES	<b>Last Name:</b> RUSSO	<b>Suffix:</b>
<b>Firm CRD #:</b> 8174	<b>Firm Name:</b> UBS FINANCIAL SERVICES INC.	<b>CRD Branch #:</b>	<b>Firm NFA #:</b>
<b>Firm Billing Code:</b> Individual CRD #: PYO	3059860	Individual SSN: 179-60-2983	Individual NFA #:
<b>Office of Employment Address Street 1:</b> MELLON BANK CENTER		<b>Office of Employment Address Street 2:</b> 1735 MARKET STREET	
<b>City:</b> PHILADELPHIA	<b>State:</b> Pennsylvania	<b>Country:</b> USA	<b>Postal Code:</b> 19103
<b>Private Residence Check Box:</b>			

If the Office of Employment address is a private residence, check this box.

Rev. Form U5 (06/2003)

**2. CURRENT RESIDENTIAL ADDRESS****NOTICE TO THE FIRM**

*This is the last reported residential address. If this is not current, please enter the current residential address.*

From	To	Street	City	State	Country	Postal Code
09/2003	PRESENT	1200 KAREN LANE	WEST CHESTER	PA	USA	19380

Rev. Form U5 (06/2003)

**3. FULL TERMINATION**

**Is this a FULL TERMINATION?  Yes  No**

*Note: A "Yes" response will terminate ALL registrations with all SROs and all jurisdictions.*

**Reason for Termination:** \* Other \* Provide an explanation below

FAILED TO COMPLETE LICENSING REQUIREMENTS

Rev. Form U5 (06/2003)

**4. DATE OF TERMINATION****Date Terminated (MM/DD/YYYY):** 01/20/2005

A complete date of termination is required for full or partial termination. This date represents the actual date that the termination of registration is effective.

Rev. Form U5 (06/2003)

**6. AFFILIATED FIRM TERMINATION**

No Information Filed

Rev. Form U5 (06/2003)

**7. DISCLOSURE QUESTIONS**

IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IN SECTION 7 IS 'YES', COMPLETE DETAILS OF ALL EVENTS OR PROCEEDINGS ON APPROPRIATE DRP(S). IF THE INFORMATION IN SECTION 7 HAS ALREADY BEEN REPORTED ON FORM U4 OR FORM U5, DO NOT RESUBMIT DRPs FOR THESE ITEMS. REFER TO THE EXPLANATION OF TERMS SECTION OF FORM U5 INSTRUCTIONS FOR EXPLANATION OF ITALICIZED WORDS.

**Investigation Disclosure**

**7A.** Currently is, or at termination was, the individual the subject of an *investigation* or *proceeding* by a domestic or foreign governmental body or *self-regulatory organization* with jurisdiction over *investment-related* businesses? (Note: Provide details of an *investigation* on an Investigation Disclosure Reporting Page and details regarding a *proceeding* on a Regulatory Action Disclosure Reporting Page.)

**YES NO** **Internal Review Disclosure**

**7B.** Currently is, or at termination was, the individual under internal review for fraud or wrongful taking of property, or violating *investment-related* statutes, regulations, rules or industry standards of conduct?

**YES NO** **Criminal Disclosure**

**7C.** While employed by or associated with your *firm*, or in connection with events that occurred while the individual was employed by or associated with your *firm*, was the individual:

**YES NO**

1. convicted of or did the individual plead guilty or nolo contendere ("no contest") in a domestic, foreign or military court to any *felony*?
2. *charged* with any *felony*?
3. convicted of or did the individual plead guilty or nolo contendere ("no contest") in a domestic, foreign or military court to a *misdemeanor involving: investments or an investment-related business, or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?*
4. *charged* with a *misdemeanor* specified in 7(C)(3)?

**Regulatory Action Disclosure**

**7D.** While employed by or associated with your *firm*, or in connection with events that occurred while the individual was employed by or associated with your *firm*, was

**YES NO**

the individual *involved* in any *disciplinary action* by a domestic or foreign governmental body or *self-regulatory organization* (other than those designated as a "minor rule violation" under a plan approved by the U.S. Securities and Exchange Commission) with jurisdiction over the *investment-related businesses*?

#### **Customer Complaint/Arbitration/Civil Litigation Disclosure**

	YES	NO
<b>7E.</b> 1. In connection with events that occurred while the individual was employed by or associated with your <i>firm</i> , was the individual named as a respondent/defendant in an <i>investment-related</i> , consumer-initiated arbitration or civil litigation which alleged that the individual was <i>involved</i> in one or more <i>sales practice violations</i> and which:	<input type="radio"/> <input checked="" type="radio"/>	
(a) is still pending, or;	<input type="radio"/> <input checked="" type="radio"/>	
(b) resulted in an arbitration award or civil judgment against the individual, regardless of amount, or;	<input type="radio"/> <input checked="" type="radio"/>	
(c) was settled for an amount of \$10,000 or more.	<input type="radio"/> <input checked="" type="radio"/>	
2. In connection with events that occurred while the individual was employed by or associated with your <i>firm</i> , was the individual the subject of an <i>investment-related</i> , consumer-initiated complaint, not otherwise reported under question 7 (E)(1) above, which alleged that the individual was <i>involved</i> in one or more <i>sales practice violations</i> , and which complaint was settled for an amount of \$10,000 or more?	<input type="radio"/> <input checked="" type="radio"/>	
3. In connection with events that occurred while the individual was employed or associated with your <i>firm</i> , was the individual the subject of an <i>investment-related</i> , consumer-initiated, written complaint, not otherwise reported under questions 7(E)(1) or 7(E)(2) above, which:	<input type="radio"/> <input checked="" type="radio"/>	
(a) would be reportable under question 14I(3)(a) on Form U4, if the individual were still employed by your <i>firm</i> , but which has not previously been reported on the individual's Form U4 by your <i>firm</i> ; or	<input type="radio"/> <input checked="" type="radio"/>	
(b) would be reportable under question 14I(3)(b) on Form U4, if the individual were still employed by your <i>firm</i> , but which has not previously been reported on the individual's Form U4 by your <i>firm</i> .	<input type="radio"/> <input checked="" type="radio"/>	

#### **Termination Disclosure**

	YES	NO
<b>7F.</b> Did the individual voluntarily <i>resign</i> from your <i>firm</i> , or was the individual discharged or permitted to <i>resign</i> from your <i>firm</i> , after allegations were made that accused the individual of:	<input type="radio"/> <input checked="" type="radio"/>	
1. violating <i>investment-related</i> statutes, regulations, rules or industry standards of conduct?	<input type="radio"/> <input checked="" type="radio"/>	
2. fraud or the wrongful taking of property?	<input type="radio"/> <input checked="" type="radio"/>	
3. failure to supervise in connection with <i>investment-related</i> statutes, regulations, rules or industry standards of conduct?	<input type="radio"/> <input checked="" type="radio"/>	

Rev. Form US (06/2003)

#### **8. SIGNATURE**

Please Read Carefully

All signatures required on this Form U5 filing must be made in this section.

A "Signature" includes a manual signature or an electronically transmitted equivalent. For purposes of an electronic form filing, a signature is effected by typing a name in the designated signature field. By typing a name in this field, the signatory acknowledges and represents that the entry constitutes in every way, use, or aspect, his or her legally binding signature.

**8A. FIRM ACKNOWLEDGMENT**

This section must be completed on all U5 form filings submitted by the firm.

**INDIVIDUAL ACKNOWLEDGMENT AND CONSENT**

8B. This section must be completed on amendment U5 form filings where the individual is submitting changes to Part II of the INTERNAL REVIEW DRP or changes to Section 2 (CURRENT RESIDENTIAL ADDRESS).

**8A. FIRM ACKNOWLEDGMENT**

I VERIFY THE ACCURACY AND COMPLETENESS OF THE INFORMATION CONTAINED IN AND WITH THIS FORM.

**Person to contact for further information**

MICHAEL SOLOMON

**Telephone # of person to contact**

201-352-6669

**Signature of Appropriate Signatory**

RAYMOND ROBERTELLO

**Date (MM/DD/YYYY)**

02/07/2005

Type or Print Name of Appropriate Signatory

	Rev. Form U5 (06/2003)
<b>INVESTIGATION DRP</b>	No Information Filed
	Rev. Form U5 (06/2003)
<b>INTERNAL REVIEW DRP</b>	No Information Filed
	Rev. Form U5 (06/2003)
<b>CRIMINAL DRP</b>	No Information Filed
	Rev. Form U5 (06/2003)
<b>TERMINATION DRP</b>	No Information Filed
	Rev. Form U5 (06/2003)
<b>REGULATORY ACTION DRP</b>	No Information Filed
	Rev. Form U5 (06/2003)
<b>CUSTOMER COMPLAINT/ARBITRATION/CIVIL LITIGATION DRP</b>	No Information Filed

## **EXHIBIT 2**

## News Release

**FOR RELEASE:** Friday, January 6, 2006  
**CONTACTS:** Nancy Condon (202) 728-8379



## **NASD Says Software Error Impacts Certain Series 7 Exam Results**

**Washington, DC** – NASD today announced that it has begun notifying a limited number of individuals who took the Series 7 broker qualification exam between Oct. 1, 2004, and Dec. 20, 2005, to tell them that they incorrectly received a failing grade due to a software error. The error, which affected only exams on the cusp of the pass/fail line, caused some test takers to score just below the minimum passing grade.

NASD administered Series 7 examinations to approximately 60,500 individuals from Oct. 1, 2004, to Dec. 20, 2005. NASD noted that of the 1,882 people who incorrectly received a failing grade, slightly over 1,000 have already re-taken the exam and passed; more than 600 have not as yet rescheduled an exam date, and just over 200 individuals are scheduled to retake the exam.

No individuals received a passing grade in error.

NASD is contacting all affected individuals and firms with an initial focus on advising those currently rescheduled to take the exam that they have passed and do not need to re-take the Series 7. In addition to contacting exam takers, NASD also is contacting firms who sponsored these individuals to take the exam, and is correcting individual records in its CRD registered representative database. And any affected individual who is not currently associated with a firm in the securities industry will be afforded a 2-year period starting Feb. 1, 2006, to reassociate without having to re-take the Series 7 exam.

"NASD will immediately notify the affected individuals and firms," said Robert R. Glauber, Chairman and Chief Executive Officer of NASD. "In addition, because the integrity of our testing program is fundamental, we have undertaken a full review of this issue and are putting in place enhanced quality control measures designed to prevent a future reoccurrence. As appropriate, we will communicate any corrective measures

**"We apologize for the problems this caused for the individuals and firms affected."**

The Series 7 is an exam covering critical areas of securities markets, and the laws, regulations and responsibilities of registered representatives. Receiving a passing grade on the Series 7 is a requirement for an individual to conduct securities business with the public.

NASD administers the Series 7 on behalf of itself and other SROs. Each exam is comprised of 250 questions, with questions being selected from a large database of questions. New questions are cycled into the pool on a regular basis.

The grading error relates to 213 questions that were introduced to the pool beginning in October 2004. Because each Series 7 test is unique, a computer model is used to account for differences in test difficulty and to weight questions appropriately. The Series 7 passing score of 70 percent is subject to minor statistical adjustments based on the overall difficulty of each individual's examination. The error occurred in the weighting process in exams including one or more of the 213 questions.

In addition to reaching out to those affected and correcting all records, NASD also is implementing a full software code review and conducting independent manual test validation reviews. In addition, NASD is creating new and more sophisticated monitoring mechanisms to alert reviewers when certain statistical parameters are crossed. NASD also is in the process of replacing the technology used for the Series 7. The current system was first introduced in 1990, and is scheduled to be replaced with a new system that will be phased in beginning later this year.

NASD is communicating with affected firms regarding impacted individuals. Firms' Registration Departments should contact NASD's Call Center at (301) 869-6699 with questions. Individuals should

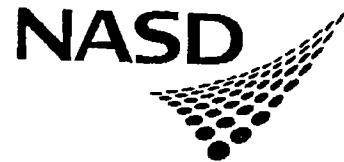
contact their firm's Registration Department or NASD's Call Center.

NASD touches virtually every aspect of the securities business - from registering and educating all industry participants, to examining securities firms, enforcing both NASD rules and the federal securities laws, and administering the largest dispute resolution forum for investors and registered firms. For more information, please visit our Web site at [www.nasd.com](http://www.nasd.com).

1735 K Street, NW      tel 202 728 8000  
Washington, DC      [www.nasd.com](http://www.nasd.com)  
20006-1506  
**Investor protection. Market integrity.**

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## **EXHIBIT 3**



January 23, 2006

MARK RUSSO  
1200 KAREN LANE  
WEST CHESTER, PA 19380

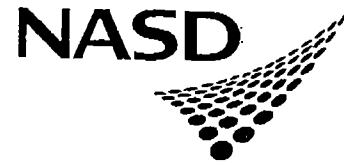
Dear MARK RUSSO:

I am writing to inform you of a scoring issue that affected the outcome of the Series 7 examination administered to you on January 19, 2005. NASD has determined that a software error introduced into the automated scoring mechanism for the Series 7 exam affected a limited subset of individuals who sat for the exam between October 2004 and December 2005. Some candidates received a failing grade erroneously. The error, which affected only exams with scores on the edge of the pass/fail line, caused some test takers to score just below the minimum passing grade. Your examination result was among those affected, and you should have received a passing score.

We have enclosed your correct score report and have posted your passing score to your CRD record. We also have removed all corresponding information on CRD related to the erroneous score. Your sponsoring firm has already been notified of your passing score, and we have reimbursed your firm for any examination fees that it incurred because of the need to re-test. If you are not currently affiliated with an NASD member firm, you have until February 1, 2008 to re-affiliate without having to take the Series 7 examination. If you are still affiliated with an NASD member firm, please contact your registration department and confirm your status and determine if there are any remaining requirements necessary for you to obtain your approved registration with NASD, other SROs, and states.

If you have rescheduled, or planned to reschedule, the Series 7 exam since the date of the incorrectly graded exam, you may have incurred certain out-of-pocket expenses as a result of the software grading error. We will defray expenses that you directly incurred in re-taking the Series 7 examination. Specifically, we will reimburse you for the demonstrable costs of re-testing including outside training courses and materials, and for travel expenses directly related to re-taking the examination. If you would like to request reimbursement, please go to our website and submit the expense reimbursement form to NASD with copies of your receipts, processed checks, or credit card statements. Please refer to [www.nasd.com/s7expenseform](http://www.nasd.com/s7expenseform) for instructions.

We at NASD sincerely regret the error occurred and apologize for any problems it may have caused you. If you or your firm has any questions or concerns, we encourage you to contact us at 301-987-2100.



NASD PROCTOR Certification Testing Centers / NYSE  
New York Stock Exchange, Inc.

UBS FINANCIAL SERVICES INC.  
1000 HARBOR BLVD  
8TH FL, COMPLIANCE DEPARTMENT  
WEEHAWKEN, NJ 07086

EXAM TITLE: General Securities Representative Examination  
EXAM SERIES: 7

NAME: MARK RUSSO  
ID NUMBER: XXX-XX-XXXX  
DATE: Wed, Jan 19, 2005  
SCORE: No. Correct: 175 Pct. Correct 70% Pass

SECTION ANALYSIS	CANDIDATE'S SCORE RANGE
1 The Registered Representative and the Customer	71 - 75%
2 Brokerage Products	61 - 65%
3 Derivative Products	50 - 60%
4 Opening, Handling, and Closing of Customer Accounts	71 - 75%
5 The Securities Markets and Regulation of the Markets	66 - 70%
6 Order Entry, Confirmation and Settlement	66 - 70%
7 Factors Affecting Security Value and Investment Decisions	76 - 85%

The following national information is provided for comparison purposes.

National Average Score: Not Available  
National Percentage of Candidates Passing the Exam: Not Available

The passing score on this exam is 70%, equated to the difficulty of a standard, base form of the exam. Total scores reported on this exam are equated to the base form of the exam.

This is an adjusted score report.  
NASD Internal Reference ID: 11979051